

transportation and dumping into any navigable water, or waters adjacent thereto, of dredgings and other refuse materials whenever in his judgment such regulations are required in the interest of navigation.

(2) Section 13 of the river and Harbor Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407) authorizes the Secretary of the Army to permit the deposit of refuse matter in navigable waters, whenever in the judgment of the Chief of Engineers anchorage and navigation will not be injured thereby, within limits to be defined and under conditions to be prescribed by him. Although the Department has exercised this authority from time to time, it is considered preferable to act under Section 4 of the River and Harbor Act of March 3, 1905 (33 Stat. 1147; 33 U.S.C. 419). As a means of assisting the Chief of Engineers in determining the effect on anchorage of vessels, the views of the U.S. Coast Guard will be solicited by coordination with the Commander of the local Coast Guard District.

(3) Under the authority contained in an Act of Congress to prevent obstructive and injurious deposits within the harbor and adjacent waters of New York City of June 29, 1888 (25 Stat. 209; 33 U.S.C. 441), the Supervisor of New York Harbor has established dumping areas in those waters and has prescribed regulations for their use. The provisions of the act are enforced by the Supervisor under the direction of the Secretary of the Army.

(4) In considering requests for the establishment of dumping grounds, District and Division Engineers will give careful consideration to the requirements of navigation and will take action to prevent unreasonable injury to fish and wildlife.

(e) *Public notice and consultation with interested parties.* (1) When applications are received for the promulgation of regulations as outlined in paragraphs (b) through (f), inclusive, of this section, District Engineers will issue public notices to all parties deemed likely to be interested and specifically to the agencies referred to in these paragraphs. The notice should fix a limiting date within which comments will be received, normally a period not less than 30 days after the actual mailing of the

notice. If time is an essential element when adequately explained by the applicant, the District Engineer is authorized to give interested parties a minimum of 10 days after receipt of the notice in which to present protests. A copy of every notice issued will be sent to the Chief of Engineers, Attention: ENGCW-ON.

(2) Copies of the notices sent to interested parties, together with a list of parties to whom sent, will accompany reports on all applications for promulgation of regulations submitted to the Chief of Engineers for necessary action.

(3) In all instances when response to a public notice has been received from a Member of Congress, the District Engineer will inform the Member of Congress of the final action taken on the application.

(f) *Public hearings.* (1) It is the policy of the Chief of Engineers to conduct his civil works activities in an atmosphere of public understanding, trust, and mutual cooperation and in a manner responsive to public needs and desires. To this end, public hearings are helpful and will be held whenever there appears to be sufficient public interest to justify such action. In case of doubt, a public hearing should be held.

(2) Among the instances warranting public hearings are general public opposition to the promulgation of regulations governing the use and navigation of navigable waters. District Engineers will notify the Division Engineer of the need for a hearing, state the proposed arrangements therefor and obtain his concurrence therein. Public hearings will be held in any case when Congressional interests or responsible local authorities make an official and valid request therefor and such action will fulfill the above-stated policy and objectives.

[33 FR 18670, Dec. 18, 1968, as amended at 51 FR 45765, Dec. 22, 1986; 52 FR 24157, June 29, 1987]

§ 209.220 Flood control regulations.

(a) *Local protection works.* On projects authorized subject to specified conditions of local cooperation, no construction is undertaken by the Department of the Army until satisfactory assurances of the required local cooperation have been accepted by the Secretary of

the Army and until any lands, easements, and rights-of-way required to be furnished by local interests have been made available for at least a complete unit of the project. The District Engineers notify local interests concerned of the requirements of local cooperation and request assurances by registered mail prior to the preparation of final plans and specifications. Regulations prescribed by the Secretary of the Army for the maintenance and operation of local flood protection works are contained in § 208.10 of this chapter. When assurances satisfactory to the District Engineer are received, they are forwarded through the Division Engineer to the Chief of Engineers for consideration of the Secretary of the Army. The District Engineers advise local interests of the action taken by the Department. Completed projects or completed useful units thereof are normally turned over to local interests for maintenance and operation as soon as the construction and testing of equipment is completed and the project is in proper condition for the assumption of maintenance and operation by local interests. The transfer is accomplished by formal notice from the District Engineer to the local interests that the completed facilities are being turned over to them for maintenance and operation as of a specific date. During construction, District Engineers keep the local interests concerned advised as to the probable date of transfer.

(b) *Use of storage allocated for flood control or navigation at reservoirs constructed wholly or in part with Federal funds.* Regulations prescribed by the Secretary of the Army in accordance with section 7 of the Flood Control Act of December 22, 1944 (58 Stat. 890; 33 U.S.C. 709) are for the purpose of coordinating the operation of the flood control features of reservoirs constructed wholly or in part with Federal funds and other flood control improvements to obtain the maximum protection from floods which can reasonably be obtained with the proper operation of all flood control improvements. Proposed regulations are determined by the District Engineer in cooperation with the persons responsible for the maintenance and operation of the reservoir involved after a detailed study

of the flood problems and the characteristics of the reservoir project. The proposed regulations are forwarded by the District Engineer through the Division Engineer to the Chief of Engineers for consideration of the Secretary of the Army. When approved by the Secretary of the Army, these regulations are published in part 208 of this chapter.

§ 209.230 Use of reservoir areas for recreation.

The Department of the Army in accordance with Section 4 of the Flood Control Act of December 22, 1944, as amended by section 4 of the Flood Control Act of July 24, 1946 (60 Stat. 641) prepares and administers plans to obtain the maximum sustained public benefit from the use of reservoir areas under its control for recreation and other related purposes, when such use is consistent with the operation and maintenance of the reservoir project for the specific purposes of the reservoir project as authorized by law and when such use is determined not to be contrary to the public interest. The plans are prepared and administered by the District Engineers, subject to review and approval of the Division Engineers and the Chief of Engineers, in close cooperation with other Federal agencies and local interests. The views and desires of these agencies and local interests are obtained normally by conferences with the District Engineers. In many cases, public hearings are held by the District Engineers at appropriate times in the vicinity of the reservoir area at which time anyone can express his views relative to these plans for consideration of the Department of the Army. Rules and regulations are prescribed by the Secretary of the Army to govern the public use of the reservoir areas in accordance with the law as a part of the master plan for recreational and related uses of the reservoir area. These rules and regulations are published in 36 CFR parts 311 to 326. Licenses and leases are granted under the law containing conditions and provisions to govern the use of specific portions of the reservoir area. Full information concerning such matters may be obtained from the District Engineer in charge of the reservoir.